

JAMES V. FITZGERALD, III (State Bar No. 55632)  
NOAH G. BLECHMAN (State Bar No. 197167)  
J. GARRET DEAL (State Bar No. 249934)  
McNAMARA, DODGE, NEY, BEATTY, SLATTERY,  
PFALZER, BORGES & BROTHERS LLP  
1211 Newell Avenue  
Post Office Box 5288  
Walnut Creek, CA 94596  
Telephone: (925) 939-5330  
Facsimile: (925) 939-0203

Attorneys for Defendant  
JASON INGRASSIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ABHINAV BHATNAGAR,  
  
Plaintiff,  
  
vs.  
  
JASON INGRASSIA, individually and in  
his official capacity; COUNTY OF  
CONTRA COSTA; and CITY OF SAN  
RAMON,  
  
Defendants.

Case No. C07-02669 CRB (EDL)

**DEFENDANT INGRASSIA'S OBJECTION  
AND MOTION TO STRIKE PLAINTIFF'S  
UNTIMELY REPLY BRIEF IN SUPPORT  
OF PLAINTIFF'S MOTION TO COMPEL**

Date: August 26, 2008  
Time: 9:30 a.m.  
Dept.: Courtroom E, 15<sup>th</sup> Floor  
Judge: Hon. Elizabeth D. Laporte

Defendant Ingrassia hereby objects and moves to strike Plaintiff's untimely reply brief in support of his motion to compel as well as the additionally submitted evidence in support of this reply. Pursuant to the Court's August 4, 2008 Order (Document 105), granting Plaintiff's motion to shorten time and setting the briefing schedule and hearing on Plaintiff's motion to compel, Plaintiff was required to file and serve his reply brief by no later than noon on August 15, 2008. The order also required Defendant's opposition to be filed by no later than noon on August 13th, a requirement that Defendant timely met. In contravention of this clear Court order, however, Plaintiff filed and served his reply brief after 6:00 p.m. (it was filed at 6:25 p.m. to be exact) on August 15, 2008. Per the Court's August 4<sup>th</sup> order, Plaintiff's brief was plainly untimely as Plaintiff has failed to comply with the Court's order regarding filing deadlines. Not only was Plaintiff's reply brief untimely, but it also included additional evidence submitted in support of

1 Plaintiff's motion to compel which is improper. Defendant Ingrassia has no adequate opportunity  
2 to oppose and/or respond to the newly submitted evidence which should therefore also be  
3 stricken. In sum, Defendant Jason Ingrassia hereby objects and moves to strike Plaintiff's  
4 untimely reply brief and all supporting documents and evidence filed therewith.

5  
6 Dated: August 18, 2008

McNAMARA, DODGE, NEY, BEATTY, SLATTERY,  
PFALZER, BORGES & BROTHERS LLP

7  
8  
9 By: 

James V. Fitzgerald, III  
Noah G. Blechman  
J. Garret Deal  
Attorneys for Defendant  
JASON INGRASSIA

McNAMARA, DODGE, NEY, BEATTY, SLATTERY, PFALZER, BORGES & BROTHERS LLP  
ATTORNEYS AT LAW  
P.O. BOX 5288, WALNUT CREEK, CA 94596  
TELEPHONE: (925) 939-5330